

SUMMARY STATEMENT

East Side Highway District v. Delavan

Docket No. 45553

The appeal involved competing claims to real property asserted by adjacent property owners: The East Side Highway District (the District) and Gregory and Ellen Delavan (the Delavans). The parties disputed the location of their common boundary relating to a portion of a road, Boothe Park Road, which includes a boat ramp located on the shore of Lake Coeur d'Alene.

The Idaho Supreme Court affirmed the trial court's decision that there was no boundary by agreement. Further, it affirmed the trial court's interpretation of the 1949 deed. However, the Supreme Court vacated the trial court's order granting the Delavans' motion for partial summary judgment on the District's claim to a public highway because hostility is not a requirement under the plain language of Idaho Code section 40-202(3). Accordingly, the case was remanded to the trial court to determine whether the District established a statutory public highway. Additionally, the Supreme Court vacated the trial court's Second Amended Judgment that awarded the Delavans the shoulder area of Boothe Park Road, and remanded that issue to the trial court to determine whether the District has an easement on the shoulder area pursuant to Idaho Code section 40-202(3).